

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES F. TRAMBLY,

Plaintiff,

vs.

THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA;
UNIVERSITY OF NEBRASKA-
KEARNEY; WALTER "TED" CARTER,
PRESIDENT OF THE UNIVERSITY OF
NEBRASKA, individually and in his
official capacity, DOUGLAS A.
KRISTENSEN, CHANCELLOR OF THE
UNIVERSITY OF NEBRASKA
KEARNEY, individually and in his
official capacity; HEIDI
HAUSSERMANN, individually and in
her personal capacity; JANE
PETERSEN, individually and in her
personal capacity; DYLAN EVANS,
individually and in his personal
capacity; JANE SHELDON,
individually and in her personal
capacity; DEB SCHROEDER,
individually; JILL FLAGEL,
individually and in her official
capacity; SCOTT BENSON, individually
and in his official capacity; CHERYL
GARDNER [sic], individually and in her
official capacity; JOHN DOE #1
through JOHN DOE #15; and JANE
DOE #1 through JANE DOE #15.

Defendants.

CASE NO. CV 20-3094

**NOTICE OF REMOVAL OF CIVIL
ACTION AND REQUEST
PLACE OF TRIAL**

Pursuant to 28 U.S.C. § 1441(a), Defendants hereby remove this case to the United States District Court for the District of Nebraska, and in support thereof state and allege as follows:

TIMELINESS OF REMOVAL

1. Plaintiff filed a civil action against Defendants in the District Court of Buffalo County, Nebraska on July 7, 2020. The case is entitled James F. Trambly v. Board of Regents of the University of Nebraska; University of Nebraska; University of Nebraska-Kearney; Walter "Ted" Carter, Jr., President of the University of Nebraska, Individually and in his official capacity; Douglas A. Kristensen, Chancellor of the University of Nebraska-Kearney, individually and in his official capacity; Heidi Haussermann, individually and her official capacity; Jane Petersen, individually and in her personal capacity; Dylan Evans, individual and in his personal capacity; Jane Sheldon; individually and in her personal capacity; Deb Schroeder, individually; Jill Flagel, individually and in her personal capacity; Cheryl Gardner [sic]; individually and in her personal capacity; John Doe #1 through John Doe #15; and Jane Doe #1 through Jane Doe #15; Case No. CI 20-346.

2. Plaintiff James F. Trambly served a copy of the complaint on all defendants by certified mail.

3. Cheryl Gardner¹ [sic], the last Defendant served, was served by certified mail on July 24, 2020.

4. True and complete copies of the process and pleadings received by Defendant Cheryl Garder [sic] are attached as Exhibit "A."

BASIS FOR JURISDICTION

5. This Court has original jurisdiction over this action under the provisions of 28 U.S.C. § 1331 because Plaintiff asserts causes of action based on Americans with Disabilities Act ("ADA") and the ADA Amendments Act of 2008. *See* 42 U.S.C. § 12117(a).

¹ Defendants assume named Defendant "Cheryl Gardner" is referring to Sheryl Gartner, the University of Nebraska's Director of Human Resources.

6. This Court has supplemental jurisdiction over the claims brought under Nebraska state law under 28 U.S.C. § 1337(a) because they form part of the same "case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1337(a).

7. Defendants will file a true and correct copy of this Notice with the Clerk of the District Court of Buffalo County, Nebraska.

8. By filing this Notice, Defendants do not waive any defense and/or affirmative claims, counterclaims, or third-party claims that may be available to Defendants.

WHEREFORE, Defendants hereby remove the above-captioned case from the District Court of Buffalo County, Nebraska to the United States District Court for the District of Nebraska.

REQUEST FOR PLACE OF TRIAL

Pursuant to NECivR 40.1(b), Defendant requests that trial of this action take place in Lincoln, Nebraska.

Respectfully submitted,

BOARD OF REGENTS
OF THE UNIVERSITY
OF NEBRASKA, et al.
Defendants.

By: /s/ Bren Chambers
Bren Chambers, NSBA #23150
Associate General Counsel
University of Nebraska
Varner Hall, Room 234
3835 Holdrege Street
Lincoln, Nebraska 68583-0745
(402) 472-1201 (voice)
(402) 472-2038 (facsimile)
bchambers@nebraska.edu

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2020, I electronically filed the foregoing with the Clerk of the United States District Court for the District of Nebraska and the same was electronically transmitted to Plaintiff's attorney of record, Joshua D. Barber, at joshuabarber@yahoo.com

SERVICE RETURN

BUFFALO COUNTY DISTRICT COURT
 Buffalo County Courthouse
 P.O. Box 520
 Kearney NE 68848 0520

To:

Case ID: CI 20 346 Trambly v. Board of Regents of Univ. of

Received this Summons on _____, _____. I hereby certify that on
 _____, ____ at _____ o'clock __ M. I served copies of the Summons
 upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage ____ miles _____

TOTAL \$ _____

Date: _____ BY: _____
 (Sheriff or authorized person)

**CERTIFIED MAIL
 PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,
 TO THE PARTY: Cheryl (Sheryl) Gardner

At the following address: 4911 S. 66th St.

Lincoln, NE 68516

on the 16th day of July 2020, as required by Nebraska state law.

 Joshua D. Barber

Postage \$ 7¹⁰ Attorney for: Plaintiff

The return receipt for mailing to the party was signed on July 24, 2020.

To: Cheryl Gardner

4911 S 66th St

Lincoln, NE 68516

From: Joshua D Barber

PO Box 4555

Lincoln, NE 68504-0555

ATTACH RETURN RECEIPT & RETURN TO COURT

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only**

For delivery information, visit our website at www.usps.com.

OFFICIAL

Certified Mail Fee **3.55**
\$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) **7.45**
\$

Return Receipt (electronic)
\$

Certified Mail Restricted Delivery
\$

Adult Signature Required
\$

Adult Signature Restricted Delivery
\$

Postage **.70**
\$

Total Postage and Fees **7.10**
\$

Sent To **Cheryl Gardner**
Street and Apt. No., or P.O. Box No.
4911 S. 66th St.
City, State, Zip+4 **LINCOLN, NE 68516**

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

2020
10
U.S. POSTAGE CPU
Postmark
Here
88310-0001

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY													
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature X Cheryl Gardner <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) 7/26/20 C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>													
<p>1. Article Addressed to: Cheryl Gardner 4911 S. 66th St. LINCOLN, NE 68516</p> <p> 9590 9402 3246 7196 7478 79</p>		<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>		<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®														
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™														
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery														
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise														
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™														
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery														
<p>2. Article Number (Transfer from service label) 7017 1450 0001 2858 3932</p>		<p>Domestic Return Receipt</p>													

PS Form 3811, July 2015 PSN 7530-02-000-9053

Certificate of Service

I hereby certify that on Tuesday, July 28, 2020 I provided a true and correct copy of the Return-Summons/Alias Summons to the following:

Flagel,Jill, service method: No Service

Schroeder,Deb, service method: No Service

Kristensen,Douglas,A service method: No Service

Board of Regents of Univ. of Nebr. service method: No Service

Benson,Scott, service method: No Service

Sheldon,Jane, service method: No Service

Gardner,Cheryl, service method: No Service

Petersen,Jane, service method: No Service

University of Nebr. Kearney service method: No Service

University of Nebraska service method: No Service

Haussermann,Heidi, service method: No Service

Evans,Dylan, service method: No Service

Carter,Walter,,Jr. service method: No Service

Signature: /s/ Joshua Barber (Bar Number: 22624)